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IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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LAURA S. CUMMINGS,

Plaintiff,

vs.

EQUITABLE LIFE & CASUALTY  
INSURANCE COMPANY, INC., a Utah  
Corporation; JOHN DOES 1-10,

Defendants.

AMENDED ORDER CONFIRMING  
ARBITRATION AWARD

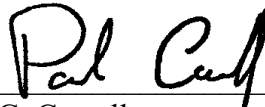
Case No. 2:02-CV-00444 PGC

Upon receipt of the Tenth Circuit's opinion in *Cumming v. Equitable Life & Casualty Insurance Company*, No. 05-4085, the court hereby amends its previous order confirming an arbitration award in favor of plaintiff Laura S. Cummings' employer, Equitable Life & Casualty Company, Inc. The court ORDERS that the Award of Arbitrator be confirmed as a judgment by the court, granting judgment in favor of defendants on each of plaintiff's claims. All of Ms. Cummings' federal claims which were arbitrated and stayed pending arbitration are confirmed, and each of these federal claims is dismissed with prejudice. Ms. Cummings' state claims, which the court previously dismissed with prejudice for failure to exhaust state administrative remedies, are ORDERED dismissed without prejudice pursuant to *Fitzgerald v. Correctional Corporation of*

*America.*<sup>1</sup> The court's order is amended to reflect that its dismissal of Ms. Cummings' state claims is without prejudice. The case is to remain closed.

DATED this 25th day of May, 2006.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Paul Cassell", written over a horizontal line.

Paul G. Cassell  
United States District Judge

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<sup>1</sup>403 F.3d 1134, 1139 (10th Cir. 2005) (“[A] dismissal based on lack of exhaustion should ordinarily be without prejudice.”).